IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 203 of 2004

Between:

1 M.Lakshmi Narayana, S/o.M.Narayana,
S.K.P.High School, Dhone,Kurnool Dist.
2 K.Subbarayudu, S/o.K.Subbarayudu,
S.K.P.High School, Dhone,Kurnool Dist.
3 B.Narayana Setty, S/o.B.Seshaiah Setty,
S.K.P.High School, Dhone,Kurnool Dist.
4 G.Prasada Rao, S/o.G.Narsaiah,
S.K.P.High School, Dhone,Kurnool Dist.
5 Y.Ramaswara Reddy, S/o.Y.Thimma Reddy,
S.K.P.High School, Dhone,Kurnool Dist.
6 S.V.Brahmam, S/o.S.Pullaiah,
S.K.P.High School, Dhone,Kurnool Dist.
7 G.Dattatreya Sharma, S/o.G.Laxminarsappa,
S.K.P.High School, Dhone,Kurnool Dist.
8 K.Narasa Ramaiah, S/o.K.Viswanadhamaiah,
S.K.P.High School, Dhone,Kurnool Dist.
9 B.Narayana Chetty, S/o.K.Venkata Swamy,
S.K.P.High School, Dhone,Kurnool Dist.
10 K.Venkata Swamy, S/o.B.Venkatachary,
S.K.P.High School, Dhone,Kurnool Dist.
11 B.Manohar Setty, S/o.B.C.Maddiletaiah,
S.K.P.High School, Dhone,Kurnool Dist.
12 S.Moulali, S/o.S.Mohiddin Saheb,
S.K.P.High School, Dhone,Kurnool Dist.
13 S.Murali Dhara, S/o.Pullaiah,
S.K.P.High School, Dhone,Kurnool Dist.
14 K.Anjaneyulu, S/o.K.Venkata Ramanaiah,
S.K.P.High School, Dhone,Kurnool Dist.
15 Y.Prathap Naidu, S/o.Y.Krishnama Naidu,
S.K.P.High School, Dhone,Kurnool Dist.
16 M.Viswanatham, S/o.M.Subbaiah,
S.K.P.High School, Dhone,Kurnool Dist.
17 Late S.Ayyanna, P.E.T.,rep.by his wife S.Premeelamma.
S.K.P.High School, Dhone,Kurnool Dist.
18 D.Subbaiah, S/o.D.Chinnaiah,

S.K.P.High School, Dhone,Kurnool Dist.

19 Late K.Mohan Kumar, L.T.Assistant,rep.by his wife Y.Kamini Devi.
S.K.P.High School, Dhone,Kurnool Dist.

..... PETITIONER(S)

AND

1 The Commissioner & Director of School Education, A.P.,Hyderabad.
2 The Dist.Educational officer, Kurnool.
3 The Audit officer, Local Fund, Kurnool.
4 The Secretary & Correspondent, S.K.P.High School, Dhone,Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of Mandamus declaring that the petitioners are entitled for preserving of 30 days Earned Leave consequent on preventing them from availing of summer vacation during 1991 in connection with the Mid-term poll of house of parliament of 1991 on the analogy of the orders issued by the Commissioner & director of School Education in Proc.L.Dis.No.4756/D1-2/2003, dated 7-11-2003 with all consequential benefits by holding the action of the respondents in not preserving the 30 days Earned Leave in pursuance of FR 82 (b) subsidary Rule (5) read with G.O.Ms.No.35, Edn., dated 16-1-1981 to the petitioners while extending the said benefit to other similarly situated persons on the ground that the petitioners have not obtained similar orders is as illegal, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution .

Counsel for the Petitioner:MR.M.RAMGOPAL RAO

Counsel for the Respondent No.1 & 2: GP FOR EDUCATION

Counsel for the Respondent No.3: G.P. for Finance and Planning

The Court made the following :

ORDER:

The learned counsel for the petitioners submits that the petitioners have attended election duties of Parliament General Elections of 1991 during the summer vacation. As they were not allowed to avail the summer vacation during the year 1991 they are entitled for 30 days earned leave as per G.O.Ms.No.35 dated 16-1-1981.

It is further submitted by the learned counsel for the petitioners that the fundamental Rule 82 is applicable to their case and they are entitled for 30 days earned leave. But they were granted only five days earned leave to those who have discharged the duties of Presiding Officer and Assistant Presiding Officer and only 2 days earned leave to Polling Officers and Attenders.

It is the case of the petitioners that they are entitled for earned leave for remaining days. It is also further stated that they are entitled for the benefit in O.A.No.5428 1996 and batch dated 30th August, 1999, wherein certain directions were given in favour of the applicants therein. The said orders of the Tribunal implemented and therefore, the petitioners are also entitled for same benefit.

The core question raised in this W.P. was already adjudicated by the Division Bench of this Court in W.P.No.4765 of 2004 and the Division Bench by Order dated 6-7-2004 had dismissed the writ petition observing that the relief which was sought relates to the year 1991 which was not at all persuaded by the petitioners for 13 longs years and therefore, Court cannot grant any relief to a person who is not vigilant on the Principle of *vigilantibus non dornientibus jura subventiuant.*

Following the aforesaid orders dated 6-7-2004 in W.P.No.4765 of 2004, this W.P. is liable to be dismissed on the ground of inordinate delay in pursuing the matter.

Accordingly this W.P. is dismissed. There shall be no order as to costs.

V.Eswariah,J

Stp

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner & Director of School Education, A.P.,Hyderabad.
2 The Dist.Educational officer, Kurnool.
3 The Audit officer, Local Fund, Kurnool.

4. 2CCs to G.P. for Education, High Court Buildings,(out)

5. 2CD copies

Form-NIC-OGS/WP{ }

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 203 of 2004

28th July,2004.